

CHAPTER 1

FINANCIAL INSTITUTIONS

Article 9

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ARTICLE 9

CRIMINAL AND RELATED PROVISIONS

7-1-840. Institution of criminal prosecutions; assistance to state and federal law enforcement agencies; providing information to financial institutions considering employment of suspected person.

(a) Upon discovery, by report or otherwise, of any apparent violation of any state or federal criminal law which is perpetrated through a deposit or loan account maintained at or which utilizes a monetary instrument issued by a financial institution located in this state or of any state or federal criminal law which relates to a financial institution, the department shall in its discretion either institute criminal proceedings in the manner provided by law or refer the matter to an appropriate law enforcement or prosecuting authority for further action. The department shall have the right to submit to the grand juries of the respective counties of the state any criminal violations of the laws of Georgia known by it to have occurred in such counties, or it may likewise submit to any United States attorney any criminal violations of the laws of Georgia which also constitute violations of the laws of the United States applicable to such financial institution. This provision shall not be so construed as to prevent the commissioner or other persons from proceeding in such cases by affidavit and warrant.

(b) The department may assist state and federal law enforcement agencies in further investigation of apparent violations of state or federal criminal statutes referred to in subsection (a) of this Code section.

(c) Without incurring civil liability or, in the case of the department, violating the provisions of Code [Section 7-1-70](#), any financial institution that is the employer or former employer of a person or the department, whether in its regulatory capacity or as the employer or former employer of a person, may provide information to a financial institution which has employed or is considering employment of such person concerning the known or suspected involvement of such person in an apparent violation of a state or federal law or regulation which has been reported to the state or federal law enforcement or regulatory agency having jurisdiction of the violation unless the information is false and such employer, former employer, or the department knows that it is false and provides it with actual malice. For purposes of this Code section, the terms "financial institution" and "department" shall mean any duly elected or appointed official of such entities.

(d) If any board of directors, director, or officer of any financial institution is required by the department or the Federal Deposit Insurance Corporation or any other federal bank supervisory agency to provide any such regulatory agency or the fidelity bond carrier with any information regarding the appearance or suspicion of criminal activity involving any director, officer, agent, employee, or customer of such financial institution, such board of directors, director, or officer shall not incur any civil liability for providing such information unless the information is false and such board of directors, director, or officer knows that it is false and provides it with actual malice.

(Ga. L. 1919, p. 135, art. 20, 37; Code 1933, 13-9936; Code 1933, 41A-9901, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1989, p. 1211, 16; Ga. L. 1991, p. 1374, 1.)

7-1-841. Applicability of Title 16.

(a) The following provisions of [Title 16](#) are expressly made applicable to financial institutions, their directors, officers, agents, and employees and persons or corporations having dealings with, supervision over, or other contact with financial institutions:

- (1) Article 2 of [Chapter 7](#) of [Title 16](#), relating to damage to property;
- (2) Article 3 of [Chapter 7](#) of [Title 16](#), relating to arson and related offenses;
- (3) Article 1 of [Chapter 7](#) of [Title 16](#), relating to burglary and related offenses;
- (4) [Chapter 9](#) of [Title 16](#), relating to deceptive practices;
- (5) [Chapter 8](#) of [Title 16](#), relating to theft;
- (6) Article 2 of [Chapter 8](#) of [Title 16](#), relating to robbery;
- (7) Article 1 of [Chapter 10](#) of [Title 16](#), relating to abuse of government office; and
- (8) Article 4 of [Chapter 10](#) of [Title 16](#), relating to perjury and other falsifications.

(b) Nothing in subsection (a) of this Code section shall be construed to indicate that the designated chapters of [Title 16](#) were not applicable to the enumerated financial institutions,

persons, or corporations prior to April 1, 1975, or that other provisions of [Title 16](#) are not, in appropriate circumstances, also applicable to the enumerated financial institutions, persons, or corporations.

(Code 1933, 41A-9902, enacted by Ga. L. 1974, p. 705, 1.)

7-1-842. Felonies of directors, officers, agents, and employees of financial institutions; aiding and abetting false entries.

Any director, officer, agent, or employee of a financial institution who knowingly:

(1) Makes any false entry in any book, report, or statement of the financial institution or who omits or concurs in omitting to make any material entry in its books or accounts with intent in either case to injure or defraud the financial institution or any other company, firm, or person or to deceive any officer of the financial institution, the commissioner, or any examiner and every person who with like intent aids or abets any officer, director, clerk, agent, or employee in making any false entry, report, or statement or omitting to make any material entry on its books and accounts shall be guilty of a felony and, upon conviction, shall be punished by imprisonment and labor in the penitentiary for not less than one year nor more than ten years;

(2) While in charge of or employed in a financial institution, allows it to receive a deposit when he knows the financial institution to be insolvent shall be guilty of a felony and, upon conviction, shall be punished by imprisonment in the penitentiary for not less than one year nor more than ten years if loss or injury shall result to such depositor;

(3) By letterheads, newspaper advertisements, signs, circulars, or otherwise, represents the capital stock of any financial institution to be in excess of the capital actually paid in or who knowingly makes or concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement therein which is false or who knowingly omits or concurs in omitting any statement required by law or to be contained therein shall be guilty of a felony and, upon conviction, shall be punished by imprisonment and labor in the penitentiary for not less than one year nor more than five years;

(4) Violates or is involved in violating any provision of the charter or bylaws of said financial institution shall be guilty of a felony and, upon conviction, shall be punished by imprisonment and labor in the penitentiary for not less than one year nor more than five years;

(5) Uses information obtained through his association with the financial institution which he serves as a director, officer, agent, or employee, which is not otherwise publicly available, with the intent to realize personal gain or to cause financial harm to another party shall be guilty of a felony and, upon conviction, shall be punished by a fine not to exceed \$10,000.00 or twice the amount of improper gain realized, whichever is less, or by imprisonment and labor in the penitentiary for not less than one year nor more than five years, or both.

(Ga. L. 1919, p. 135, art. 20, 10, 12, 14, 28; Code 1933, 13-9910, 13-9912, 13-9914, 13-9928; Code 1933, 41A-9905, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1989, p. 1249, 8.)

7-1-843. Certain misdemeanors of directors, officers, agents, and employees of financial institutions.

Any officer, director, agent, or employee of any financial institution who shall perform the following acts or deeds shall be guilty of a misdemeanor:

(1) Advertises by any office sign or upon any letterhead, billhead, bank note, receipt, certificate, or circular or on any written or printed paper that the deposits in said financial institution are insured or guaranteed, unless such deposits in said financial institution are, in fact, insured and guaranteed as required by Code Sections 7-1-244, 7-1-666, and 7-1-797 or regulation or action of the department pursuant thereto;

(2) Intentionally conceals from the directors of any financial institution or from the committee to whom the directors have delegated authority to pass on loans and discounts any discount or loan made for and in behalf of said financial institution or the purchase or sale of any evidence of indebtedness or agreement for the payment of money;

(3) Uses or applies any part of the capital or other funds of any financial institution to the purchase of shares of its own stock, unless such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith under Code Section 7-1-263 or is otherwise permitted by law;

(4) Concurs in any vote or act of the directors of such financial institution by which it is intended to declare a dividend or reduce or make a distribution of capital, except as authorized by Code Section 7-1-460 or 7-1-461 or otherwise under this chapter or other applicable law;

(5) Discounts or receives any evidence of indebtedness or agreement for the payment of money in payment of any subscription for common or preferred shares or with intent to enable any shareholder to withdraw any part of the money paid by him for shares held in the financial institution;

(6) Knowingly and willfully issues, participates in issuing, or concurs in any vote of the directors to issue any increase of its capital beyond the amount of the capital thereof duly authorized by or in pursuance of law or who knowingly or willfully sells or agrees to sell or who is interested, directly or indirectly, in the sale of any such shares of stock of such financial institution or in any agreement to sell the same;

(7) Certifies any check, draft, or order where the drawer of such check, draft, or order does not have on deposit with the financial institution at the time of such certification an amount of money equal to the amount specified in such check, draft, or order or fails to charge or set aside such amount from the deposit of the drawer immediately for the purpose of paying such certified check, draft, or order when presented;

(8) Makes or consents to the making of any conveyance, assignment, transfer, mortgage, or lien with intent to hinder, delay, or defraud creditors, after insolvency of the financial institution or in contemplation thereof, whether the same is made to an innocent purchaser or to any other person.

(Ga. L. 1919, p. 135, art. 19, 37; Ga. L. 1919, p. 135, art. 20, 15, 16, 24, 25, 26, 27, 30; Ga. L. 1927, p. 195, 14; Code 1933, 13-2037, 13-9915, 13-9916, 13-9924, 13-9925, 13-9926, 13-9927, 13-9929; Code 1933, 41A-9906, enacted by Ga. L. 1974, p. 705, 1.)

7-1-844. Other misdemeanors of directors, officers, agents, and employees of financial institutions.

Any director, officer, agent, or employee of a financial institution who shall willfully violate or participate in the violation of any of the following provisions of this chapter shall be guilty of a misdemeanor:

- (1) Code [Section 7-1-37](#), relating to restrictions on department officials and employees;
- (2) Code [Section 7-1-62](#), relating to accounting requirements to be followed by financial institutions;
- (3) Code [Section 7-1-285](#), relating to loan limits on banks;
- (4) Code [Section 7-1-291](#), relating to borrowing limits on banks;
- (5) Code [Section 7-1-311](#), relating to operations as a fiduciary by a trust company;
- (6) Code [Section 7-1-491](#), relating to limitations on financing to directors and officers of banks and trust companies;
- (7) Code [Section 7-1-492](#), relating to prohibitions applicable to directors, officers, employees, and attorneys of bank and trust companies in dealings with the institutions with which they are connected; or
- (8) Code [Section 7-1-658](#), relating to loan limits on credit unions.

(Ga. L. 1919, p. 135, art. 20, 6, 21, 22, 23, 31; Code 1933, 13-9906, 13-9922, 13-9930; Ga. L. 1966, p. 692, 51; Code 1933, 41A-9907, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1975, p. 445, 45.)

7-1-845. Miscellaneous felonies; when punished as misdemeanors.

(a) Any person or corporation, including any financial institution or its directors, officers, agents, or employees, who shall perform the following acts or deeds shall be guilty of a felony:

(1) Publishes or causes to be published any false statement, expressed either by printing or writing or by signs, pictures, or the like, of or concerning any financial institution as to the assets or liabilities of said financial institution or as to its solvency or ability to meet its obligations or as to its soundness or who shall publish or cause to be published any other false statement so expressed, calculated to affect the credit or standing of said financial institution or to cast suspicion upon its solvency, soundness, or ability to meet its deposits or other obligations in due course;

(2) Falsely circulates any report or makes any false oral statement as to the assets or liabilities of a financial institution or as to its solvency or ability to meet its obligations or as to its soundness or who shall make any other false oral statement calculated to affect the credit or standing of said financial institution or to cast suspicion upon its solvency, soundness, or ability to meet its deposits or other obligations in due course;

(3) Willfully engages in the business of:

(A) A bank in violation of Code [Section 7-1-241](#);

- (B) A trust company in violation of Code [Section 7-1-242](#);
 - (C) A credit union in violation of Code [Section 7-1-633](#);
 - (D) Selling checks before receiving a license as required by Code [Section 7-1-681](#);
 - (E) An international bank agency before receiving the license required by Code [Section 7-1-713](#);
 - (F) A business development corporation before approval of the department is granted under Code [Section 7-1-743](#);
 - (G) A building and loan association before its articles are approved; or
 - (H) Transacting business either directly or indirectly as a mortgage broker or mortgage lender unless licensed by the department or exempt from licensing pursuant to Code [Section 7-1-1001](#); or
- (4) Being an agent of a licensee or such agent's employee who is authorized to sell or issue checks on behalf of a licensee, issues checks directly or indirectly to or for his own benefit, or sells or issues checks without accepting funds therefor or sells or issues checks and willfully fails to remit to the licensee the proceeds from the sale or issuance of such checks within five business days from the date of such sale or issuance.

(b) Upon conviction under this Code section such person or corporation shall be punished by imprisonment for not less than one nor more than five years or fined \$10,000.00; but, on the recommendation of the jury trying the case, when such recommendation is approved by the judge presiding on the trial, such crime shall be punished as a misdemeanor. If the judge trying the case deems it proper, he may, in fixing the punishment, reduce such felony to a misdemeanor.

(Ga. L. 1919, p. 135, art. 20, 8, 32, 33; Code 1933, 13-9907, 13-9931, 13-9932; Ga. L. 1937-38, Ex. Sess., p. 307, 17, 18; Ga. L. 1965, p. 81, 18; Code 1933, 41A-9908, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1978, p. 1717, 10; Ga. L. 1983, p. 602, 20; Ga. L. 1989, p. 1257, 31; Ga. L. 1999, p. 674, 29.)

7-1-846. Punishment for misdemeanor violations.

Upon conviction of a misdemeanor as prescribed by the several provisions of this chapter, the offender shall be punished as prescribed by Code [Section 17-10-3](#), as now or hereafter amended.

(Ga. L. 1919, p. 135, art. 20, 38; Code 1933, 13-9937; Code 1933, 41A-9910, enacted by Ga. L. 1974, p. 705, 1.)